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October 14, 2014

**VIA ECF**

The Honorable Michael A. Hammer, U.S.M.J.  
United States District Court, District of New Jersey  
Martin Luther King Building and U.S. Courthouse  
50 Walnut Street  
Newark, New Jersey 07101

**Re: Lisa Fisher v. Hon. Francine A. Schott, et al.**  
**Civil Action No. 13-cv-5549(ES)(MAH)**

Dear Judge Hammer:

As Your Honor is aware, this firm represents defendant The Hon. Francine A. Schott, J.S.C. ("Judge Schott") in the above-captioned matter. On September 23, 2014, in accordance with Your Honor's Order dated September 10, 2014, the parties submitted a Joint Letter regarding each party's position with respect to outstanding discovery. We are writing to the Court to bring to the Court's attention the exigency of Your Honor's ruling on Plaintiff's objection to Judge Schott's Second Request for Production of Documents Nos. 2 and 3 which requested that Plaintiff list and produce "any and all bank card, debit card, and credit card statements for Lisa Fisher, or jointly issued in Lisa Fisher's name" for the period of December 10, 2012 through December 26, 2012 and from November 1, 2012 to January 31, 2013.

First, Plaintiff has advised that she did not have any bank, credit or debit cards during the relevant time period. Discovery obtained by way of subpoena, however, has proved otherwise. Specifically, the documents received from Enterprise Rent a Car evidence that Plaintiff used a credit or charge card to rent a car in August 2012. In addition, Judge Schott subpoenaed Plaintiff's records from Santander Bank which Subpoena was limited, by agreement with Plaintiff's consent, to any and all documents relating to Plaintiff's transactions that occurred on the following dates: August 9, 2012, through August 10, 2012; November 5, 2012, through November 13, 2012; and December 10, 2012, through December 26, 2012. Plaintiff's "transactions" were limited to any and all ATM transactions, in-person or teller transactions, credit card, debit card, and/or check card transactions. The purpose of the subpoena was to obtain discovery as to the Plaintiff's whereabouts on these dates. On or about October 8, 2014, this office received documents responsive to this Subpoena which included



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Plaintiff's transaction history, some of which detailed purchases made by a MasterCard bank card in New Jersey, as well as photographs of Plaintiff's visit to the ATM in Newark, New Jersey on December 26, 2012.

We have become aware that certain information, i.e., video surveillance footage and related photographs, is kept by banks and credit card institutions only for a limited period of time. Archived video footage and photographs of Plaintiff's activity during the relevant time period, if any, is invaluable to Judge Schott's defense in this case as Plaintiff's location on the dates set forth above are relevant to the claims and defenses in this litigation. Thus, the Court's ruling on this issue is imperative as there is a strong risk that the discovery of Plaintiff's other bank card, debit card and credit card transactions may be irretrievably destroyed and thus result in substantial harm or prejudice to Judge Schott's defense.

We thank Your Honor for your time and consideration in assisting the parties with an expedited decision with respect to the foregoing discovery dispute. Should the Court require anything further, please do not hesitate to contact me directly.

Respectfully Submitted,

**GENOVA BURNS GIANOMASI WEBSTER LLC**

s/Kathleen Barnett Einhorn

KATHLEEN BARNETT EINHORN

KBE/cr

c: Andrew Dwyer, Esq. (via ECF)  
Susan M. Scott, Esq., Deputy Attorney General (via ECF)  
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